

**CALENDAR ITEM
C18**

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12/18/15

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PRC 5701.1
S. Kreutzburg

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Robert Stephen Basso and Mary Healy Basso, Co-Trustees of the Basso Family
1994 Revocable Trust Dated July 12, 1994

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 4501 West Lake Boulevard,
near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and one mooring buoy
previously authorized by the Commission; and the use and maintenance of one
existing mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning September 25, 2015.

CONSIDERATION:

\$1,533 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000.

Other:

1. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

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2. Lessee expressly acknowledges and agrees that issuance of a Lease does not substitute for, or provide preference in, obtaining authorizations from the TRPA or any other regulatory agency for the improvements authorized by the Commission.

OTHER PERTINENT INFORMATION:

1. Applicant owns two parcels near the lease premises. Assessor's Parcel Number (APN) 085-344-005 is the littoral parcel adjacent to the lease premises. This small parcel is cut off from the upland parcel by West Lake Boulevard. The Applicant also owns APN 085-343-003, which is where the residence is located. APN 085-343-003 is part of the Tahoe Swiss Homeowners Association (HOA) whereas the littoral parcel (APN 085-344-005) is not.
2. On February 9, 2006, the Commission authorized a Recreational Pier Lease for a pier and one buoy to Robert Stephen Basso and Mary Healy Basso, Co-Trustees of the Basso Family 1994 Revocable Trust, dated July 12, 1994. That lease expired on September 24, 2015.
3. The Applicant is applying for a General Lease – Recreational Use for the continued use and maintenance of an existing pier and three existing mooring buoys, two of which were not previously authorized by the Commission. The pier and one of the buoys have historically been associated with the littoral parcel (APN 085-344-005), the other two buoys were associated with the non-littoral upland property and were located within the Tahoe Swiss HOA buoy field. At some point, the Applicant's predecessors in interest moved the two buoys associated with the upland property out of the HOA buoy field and placed them in front of the littoral parcel. The Applicant's mooring buoys have been in Lake Tahoe for many years, and in their current locations since approximately September 2003, when the Applicant took ownership of the upland parcel.
4. The Applicant provided a copy of buoy permits for three buoys adjacent to APN 085-344-005 issued by TRPA in November 2009 under the "grandfather clause" of the now vacated TRPA shorezone ordinances adopted by TRPA in 2008.
5. Prior to 2008, TRPA ordinances allowed only two existing private mooring buoys per littoral parcel. TRPA adopted new shorezone ordinances in 2008 which allowed permitting of up to three existing private mooring buoys located adjacent to a lakefront parcel if the owner could verify that the third buoy had been placed in the lake prior to 1972, or had an existing valid lease for a third buoy from the Commission, or a valid permit from

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the U.S. Army Corps of Engineers. Commission staff commented to TRPA several times prior to adoption of the 2008 TRPA shorezone ordinances that there was no analysis of the need for a third buoy and the ordinance was giving recognition to previously unpermittable buoys. In 2010, the 2008 TRPA shorezone ordinances and the buoy permits issued under them were found to be invalid by the U.S. District Court. This decision was upheld by the 9th Circuit U.S. Court of Appeals.

6. TRPA is now operating under the pre-2008 Code of Ordinances which does not have a third buoy grandfather clause. Recommending approval for a third buoy would be in direct conflict with the current TRPA Code of Ordinances. On October 29, 2014, staff wrote to the Applicant advising staff would not recommend more than two buoys in the new lease because of the conflict with TRPA's current code.
7. Staff recommends the Commission authorize two existing mooring buoys and the existing pier to be consistent with the current TRPA Code of Ordinances. Staff recommends the Commission deny authorization for the third mooring buoy adjacent to APN 085-344-005.
8. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Recreational Use to Robert Stephen Basso and Mary Healy Basso, Co-Trustees of the Basso Family 1994 Revocable Trust Dated July 12, 1994, beginning September 25, 2015, for a term of 10 years, for the continued use and maintenance of an existing pier and one mooring buoy previously authorized by the Commission, and one existing mooring buoy not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$1,533 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Deny authorization for a third mooring buoy.

EXHIBIT A

PRC 5701.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 36, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884, County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and one (1) catwalk lying adjacent to those parcels as described in that Grant Deed recorded September 3, 2003 as Document Number 2003-0150843 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

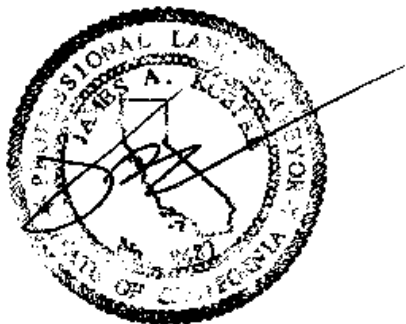
PARCELS 2 & 3 – BUOYS (2)

Two (2) circular parcels of land, being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 21, 2014 by the California State Lands Commission Boundary Unit.



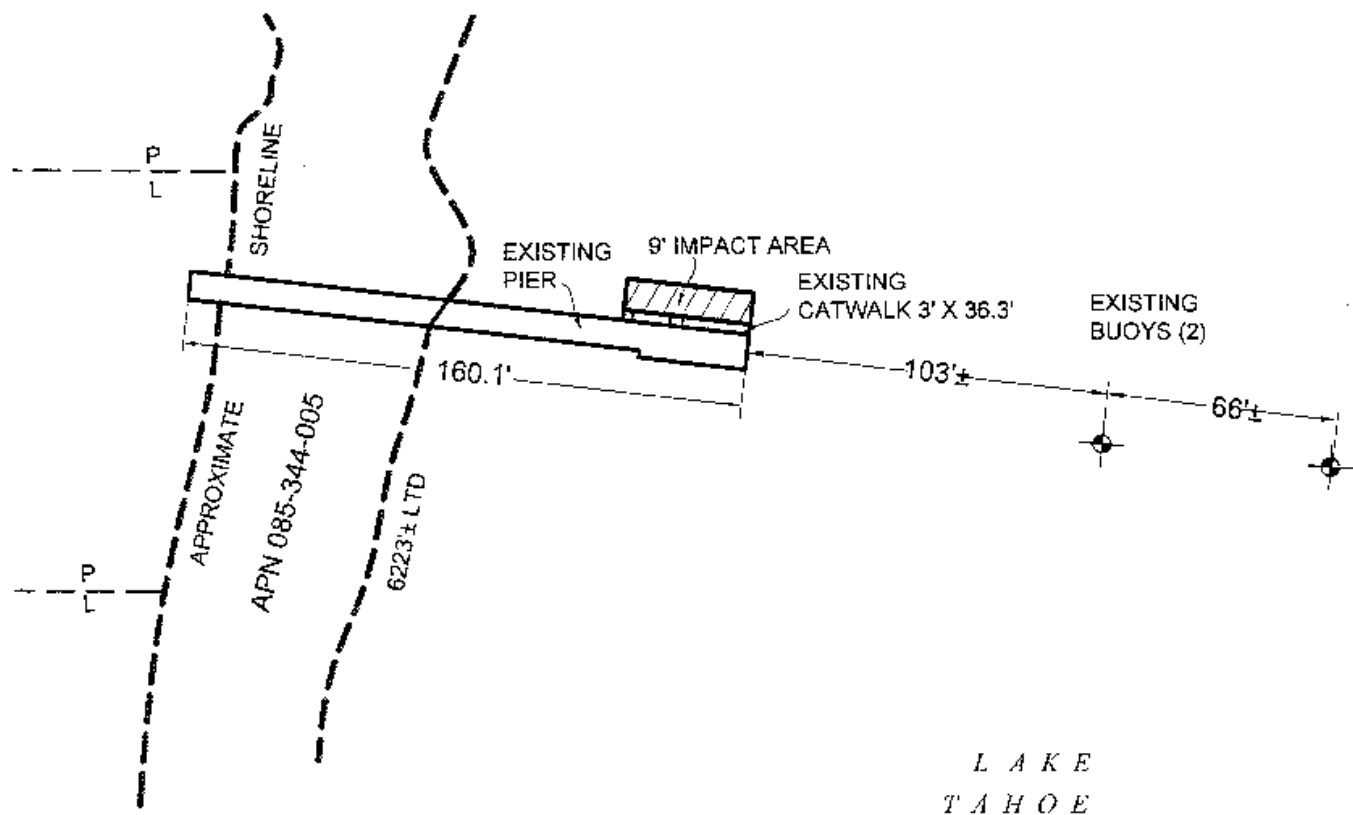


EXHIBIT A

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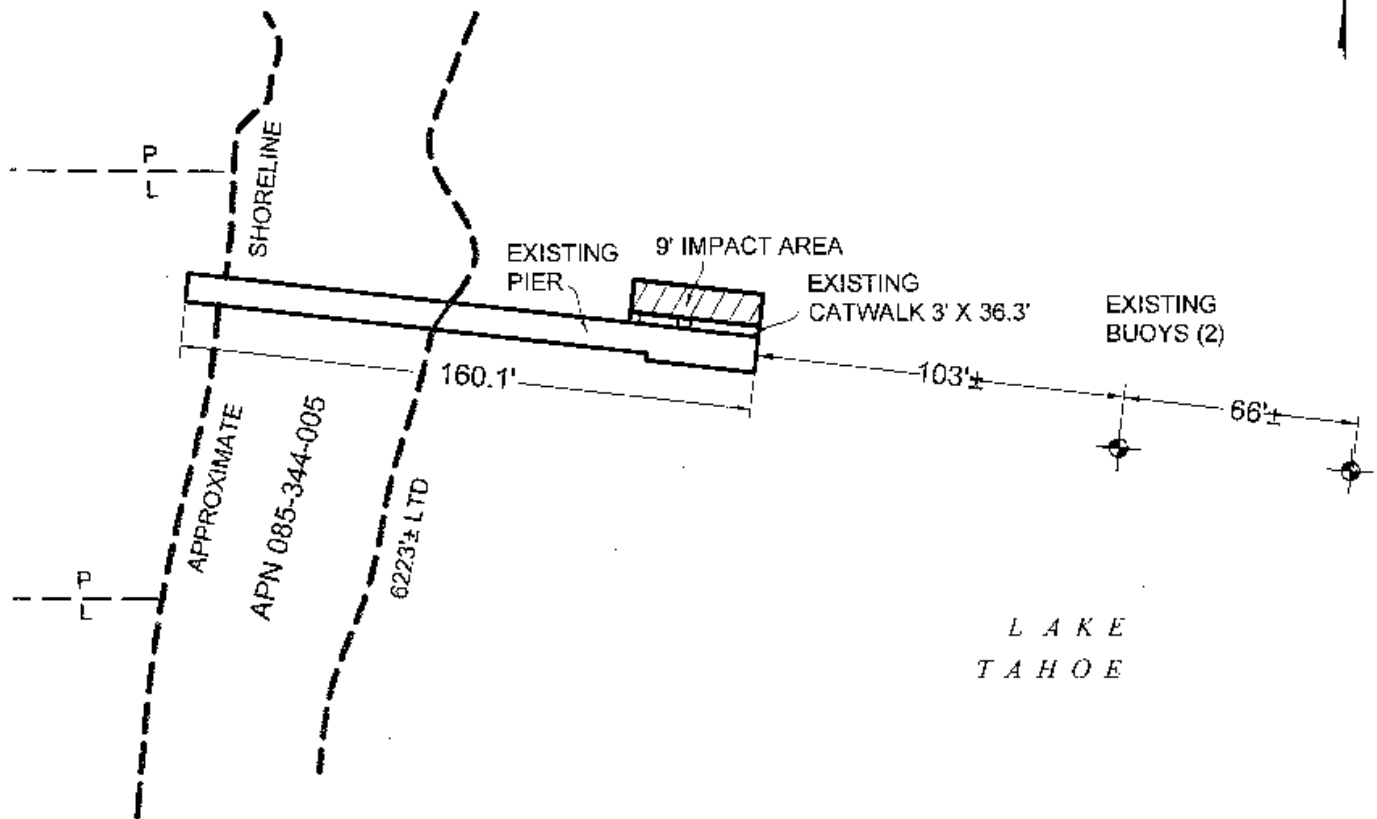
LAND DESCRIPTION PLAT
PRC 5701.1, BASSO TRUST
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

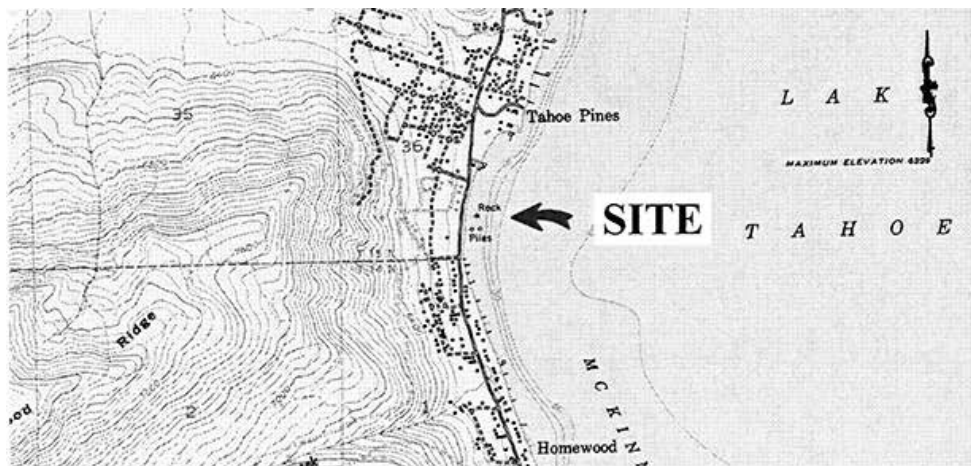
SITE



4501 WEST LAKE BLVD., NEAR HOMEWOOD

NO SCALE

LOCATION

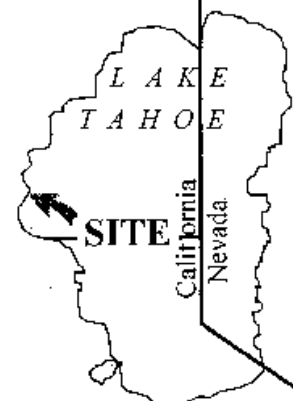


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 5701.1
BASSO TRUST
APN 085-344-005
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MTJ 10/20/15